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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,683	07/21/2006	Hiroyuki Tominaga	128187	4993
25944	7590	08/01/2008	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850				EDWARDS, LOREN C
ART UNIT		PAPER NUMBER		
		3748		
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/582,683	TOMINAGA, HIROYUKI
	<b>Examiner</b>	<b>Art Unit</b>
	LOREN C. EDWARDS	3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 June 2008.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3,5,8 and 9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1,3,5 and 8 is/are allowed.  
 6) Claim(s) 9 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 13 June 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/15/08</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. An Applicant's Amendment filed on 6/13/08 has been entered. Claims 2, 4, 6, and 7 have been canceled; claims 1, 3, and 5 have been amended; and claims 8 and 9 have been added. Overall, claims 1, 3, 5, 8, and 9 are pending in the application.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 9 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tashiro et al. (U.S. 6,622,480). Tashiro discloses a method for recovering a filter of an exhaust gas control system for an internal combustion engine (Fig. 1, E), which includes a filter (Fig. 1, No. 4) for capturing particulate matter in exhaust gas discharged from an internal combustion engine, the filter being provided in an exhaust passage (Fig. 1, No. 2) for the internal combustion engine, a filter forced recovery portion (Fig. 8) that performs a recovery process that removes the particulate matter captured by the filter by forcibly oxidizing the particulate matter so as to recover a capturing ability of the filter, and a deposited amount detection portion (Fig. 8, Step 21) that detects an amount of the particulate matter captured by the filter and deposited in the filter, and in which an entire range of an engine operating state decided by a rotational speed and torque of the internal combustion engine includes a first operating state range (Fig. 17, D) where a temperature of the exhaust gas discharged from the internal combustion engine is

low, and the particulate matter captured by the filter is not oxidized and an amount of the particulate matter deposited in the filter increases if a recovery process is not performed, and a second operating state range (Fig. 17, C1 and C2) where the temperature of the exhaust gas discharged from the internal combustion engine is high and the particulate matter captured by the filter is oxidized and the amount of the particulate matter deposited in the filter decreases even if the recovery process is not performed, the method comprising the steps of: detecting the amount of the particulate matter deposited in the filter using the deposited amount detection portion in a case where the operating state of the internal combustion engine belongs to the first operating state range (Fig. 8; Step 21); performing the recovery process using the filter forced recovery portion when the detected amount of the particulate matter deposited in the filter becomes equal to or larger than a predetermined amount in the case where the operating state of the internal combustion engine belongs to the first operating state range (Fig. 8, Step 21 – when  $P_e$  is greater than  $P_{max}$ ); and performing the recovery process using the filter forced recovery portion based on a continuous belonging time period during which the operating state of the internal combustion engine continues to belong to the second operating state range in a case where the operating state of the internal combustion engine belongs to the second operating state range (Fig. 8, Step 21 – when  $PM_s$  is greater than  $PM_{max}$ ; Fig. 9; Fig. 15; Col. 14, Line 35 - Col. 15, Line 30); wherein the recovery process is performed (Fig. 8, Step 30) when an accumulated time period during which the operating state of the internal combustion belongs to the second operating state range after a previous recovery process is finished in a case

where the operating state of the internal combustion engine belongs to the second operating state range (Fig. 8, Step 21 – when PMs is greater than PMmax; Fig. 9; Fig. 15; Col. 14, Line 35 - Col. 15, Line 30).

***Allowable Subject Matter***

4. Claims 1, 3, 5, and 8 are allowed.

***Response to Arguments***

5. Applicant's arguments filed 6/13/08 have been fully considered but they are not persuasive. Regarding claim 9, Applicant has argued that claim 9 requires "a filter forced recovery portion that performs a recovery process when an accumulated time period during which an operating state of an internal combustion engine belongs to a second operating state range after a previous recovery process is finished becomes equal to or longer than a predetermined time period". The examiner respectfully disagrees and argues that the limitation of the predetermined time period is not recited in claim 9.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LOREN C. EDWARDS whose telephone number is (571)272-2756. The examiner can normally be reached on M-TH 5:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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